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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,132

10/27/2003

Yoshinori Ichishi

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27572

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EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,132

Applicant(s)

ICHISHI ET AL.

Examiner

John K. Ford

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/17/06
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 3, 5, 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-11 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/17/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/27/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicant's election of the first species of page 10, line 15 - page 25, line 10 (without traverse) is acknowledged. Applicant has identified claims 1, 2, 4 and 6-11 as readable on the elected species. The examiner disagrees as to the readability of claims 2 and 10 and these concerns are addressed in the 35 USC 112, second paragraph, rejections that follow.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is not descriptive of the elected species because the elected species does not have an audio switch or a navigation switch hence the non-contact sensor cannot be above "all" of the four enumerated components because two of these components (i.e. the audio switch and navigation switch) do not exist in the elected species. Please amend claim 2 to be descriptive of the elected species.

Claim 10 is not descriptive of the elected species because the elected IR sensor of Figure 13 (see specification, page 17, lines 16-18) has no lens. Only nonelected species have the lens. Please amend claim 10 to be descriptive of the elected species.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 2001-347816 (Figure 5) or JP 2001-97019 (Figure 2) or USP 6,155,492 (Figures 2 or 3).

In JP '816 reference numeral 31 denotes a non-contact temperature sensor on the control unit faceplate and it is located above the temperature setting switches 35 as well as all of the other switches. In JP '019, reference numerals 80 and 81 are non-contact sensors and they are located above all of the switches except the three designated "REC/FRS", "FrDEF" and "RrDEF". Finally, in USP '492, IR sensor 19 and filters 22 and 25 are located above the driver/passenger temperature set-point switches 23.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-347816 (Figure 5) or JP 2001-97019 (Figure 2) or USP 6,155,492 (Figures 2 or 3) as applied to claims 1 and 2 above, and further in view of Goupil Jr. et al (US 2003/0157881).

It has become increasingly commonplace to label portions of the dashboard with indicia to identify components that are in an unexpected location or would not readily be recognized by the operator. In the case of Goupil Jr. et al (US 2003/0157881), as disclosed in paragraph 0034, a label is used to enhance the presence of a structure not normally found on the dashboard (namely the air filter access port). In view of such a teaching, it would have been obvious to one of ordinary skill in the art to have added such a label to the dashboard faceplate to indicate the location of the IR sensor to advantageously enhance awareness of the location of this component, analogous to the aforementioned air filter access port.

Claims 7, 8, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-347816 (Figure 5) or JP 2001-97019 (Figure 2) or USP 6,155,492 (Figures 2 or 3) as applied to claim 1 above, and further in view of Lambert et al (USP 6,828,560, Figures 5, 8 or 10).

As shown above in at least USP 6,155,492, it is known to mount the infrared silicon filter 22 flush of the infrared sensor 19 with the front faceplate 44 of the air

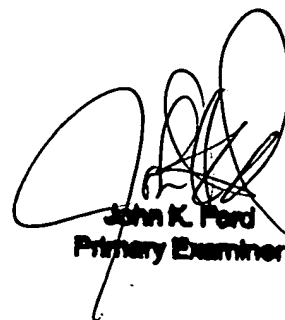
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conditioning control system as clearly shown in Figure 2. No details of the sensor are shown.

To have used the sensor shown in any one of Figure 5, 8 or 10 of USP 6,828,560 in place of the flush mounted sensor of USP '492 or the IR sensors shown in JP 2001-347816 (Figure 5) or JP 2001-97019 (Figure 2) to increase the sensitivity of the device by using a truncated pyramid concentrator and advantageously prevent convective air effects would have been obvious to one of ordinary skill in the art. Flush mounting the silicon window of either of the sensors shown in any one of the Figure 5, 8 or 10 embodiments of USP 6,828,560 would have been obvious in view of the teaching of USP '492, Figure 2, to advantageously protect the delicate sensor from caused by the occupants of the vehicle. Regarding claim 8, to have focused the sensor on the desired part of the human body to be sensed would have been obvious to one of ordinary skill in the art. A sensor mounted relatively high on the dashboard would inevitably have the bottom surface projecting downwardly to some extent to view the lower part of the torso (see, for example, USP 5,531,377, Figure 2 showing a typical IR viewing field for the sensor shown in Figure 3. USP 5,531,377 forms no part of this rejection except to show conventional knowledge in the field. Also see the viewing field in Denso's JP 2001-347816, Figure 6).

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner